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LEYDIG VOIT & MAYER, LTD  
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180 NORTH STETSON AVENUE  
CHICAGO, IL 60601-6731

EXAMINER
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LEVINE, ADAM L

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* LIEVEN WULTEPUTTE, DIRK VANDEN BERGHE,  
KEN MEYFROODT, and EDWIN De BOCK

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Appeal 2015-003641  
Application 13/046,394  
Technology Center 3600

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Before BIBHU R. MOHANTY, TARA L. HUTCHINGS, and  
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 of the Final Rejection of claims 18–27 and 32 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

## THE INVENTION

The Appellants' claimed invention is directed to a system and method for the customized configuration and pricing of equipment built from specified components (Spec., para. 1). Claim 18, reproduced below, is representative of the subject matter on appeal.

18. A computer-implemented method for generating a sales document relating to a system design, the method comprising the steps of:
- creating a plurality of design templates implementing a plurality of standardized system designs,
  - receiving information from a customer concerning a system desired by a customer;
  - correlating the information concerning the system desired by the customer with at least one of the plurality of design templates using the tangible, non-transitory computer media to obtain a proposed system design;
  - preparing a preliminary price estimation for the proposed system design based upon at least one of the plurality of design templates;
  - transmitting the preliminary price estimation for the proposed system design to a central location;
  - receiving a quotation from the central location, the quotation generated as a result of electronically comparing the information concerning the pre-defined groupings of components used to generate the at least one design template with standardized pricing information using the tangible, non-transitory computer media;
  - creating a proposal from the quotation for a designed system;
  - and updating the plurality of design templates by causing the proposal to be stored in the database as a revised quotation.

## THE REJECTIONS

The following rejections are before us for review:

1. Claims 18–27 and 32 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

2. Claims 18–27 and 32 are rejected under 35 U.S.C. § 103(a) as unpatentable over Borders et al. (US 7,004,402 B2; Feb. 28, 2006) and Bjornson et al. (US 6,662,062 B1; Dec. 9, 2003).

### FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence<sup>1</sup>.

### ANALYSIS

#### *Rejection under 35 U.S.C. § 101*

The Appellants argue that the rejection of claim 18 is improper (App. Br. 7, 8, Reply Br. 9, 10). The Appellants argue that the claim is not directed to an abstract idea, but rather solves a technological problem (Reply Br. 9). The Appellants also argue that even if the claim were directed to an abstract idea, that the claim adds significantly more to transform the nature of the claim (App. Br. 8, Reply Br. 9, 10).

In contrast, the Examiner has determined that the rejection is proper (Ans. 2–7).

We agree with the Examiner. Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: “laws of nature,

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<sup>1</sup> See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. Pty Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014).

In judging whether claim 18 falls within the excluded category of abstract ideas, we are guided in our analysis by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 2355 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1296–97 (2012)). In accordance with that framework, we first determine whether the claim is “directed to” a patent-ineligible abstract idea. If so, we then consider the elements of the claim both individually and as “an ordered combination” to determine whether the additional elements “transform the nature of the claim” into a patent-eligible application of the abstract idea. *Id.* This is a search for an “inventive concept” an element or combination of elements sufficient to ensure that the claim amounts to “significantly more” than the abstract idea itself. *Id.* The Court also stated that “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention”. *Id.* at 2358.

Here, we find that the claim is directed and rooted to the concept organizing human activities in altering a product based on a customer’s specifications and then preparing a price estimate. This is a fundamental economic practice long prevalent in our system of commerce, and is an abstract idea beyond the scope of patent eligible subject matter under § 101.

We next consider whether additional elements of the claim, both individually and as an ordered combination, transform the nature of the claim into a patent-eligible application of the abstract idea, e.g., whether the claim does more than simply instruct the practitioner to implement the abstract idea using generic computer components. We conclude that it does

not. The Appellants have argued in the Appeal Brief at page 8 that the “database . . . is a structure that changes over time” and for this reason cannot be implemented by a generic computer, but we disagree with this contention as the claim can be carried out using generic computer components. Here, both individually and as an ordered combination, the recited elements fail to transform the abstract nature of the claim.

For these above reasons this rejection of claim 1 is sustained. The Appellants have provided the same arguments for the remaining claims and the rejection of these claims is sustained for these claims as well.

*Rejection under 35 U.S.C. § 103(a)*

The Appellants argue that the rejection of claim 18 under 35 U.S.C. § 103(a) is improper and the cited combination would not have been obvious (App. Br. 8–10, Reply Br. 10–12). Specifically, the Appellants argue that improper hindsight has been used in making the combination of references (App. Br. 8).

In contrast, the Examiner has determined that rejection of record is proper (Final Rej. 9–13, Ans. 7).

We agree with the Examiner. The Appellants have not argued in the Appeal Brief that the cited combination fails to disclose any specific claim limitations, but rather that the combination would not have been obvious and uses hindsight (App. Br. 8–10). Here, we agree with and adopt the rationale presented by the Examiner in the Final Rejection at pages 9–14. The cited combination in the rejection of record would have been an obvious, predictable combination of the familiar elements cited from Borders and Bjornson for the advantage of providing more options for users in using the

combined benefits of each system as stated in the rejection of record. For these reasons, this rejection of claim 18 is sustained. The Appellants have provided the same arguments for the remaining claims and the rejection of these claims is sustained as well, as no separate arguments have been provided.

#### CONCLUSIONS OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting the claims as listed in the Rejections section above.

#### DECISION

The Examiner's rejection of claims 18–27 and 32 is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED